



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1064

contractor license numbers; advertising; exception
(NOW: earned release; credits; prisoners)

As passed by the Senate, S.B. 1064 allowed a contractor licensee to meet license number posting requirements for broadcast, internet or billboard advertising by including a website's uniform resource locator on the advertising, and required a licensee to post the licensee's license number on all submitted estimates.

The House of Representatives adopted a strike-everything amendment that does the following:

Purpose

Increases the rate at which prisoners can accrue earned release credits and establishes reporting requirements for earned release credit programs. Modifies inmate functional literacy requirements.

Background

The Arizona Legislature passed truth-in-sentencing laws in 1993, that altered earned release mechanisms and abolished parole for offenses committed on or after January 1, 1994 ([Laws 1993, Chapter 255](#)). This legislation also mandated that an inmate serve his or her entire court-imposed sentence, except that a person may be eligible for earned release credits for up to a 15 percent reduction of his or her sentence for good behavior (one day of earned release credit for every six days served). Arizona's truth-in-sentencing laws also created *community supervision* for inmates who commit offenses on or after January 1, 1994. Once an inmate has reached his or her earned release date or sentence expiration date, the inmate is released to begin his or her term of community supervision or a term of probation if the court waives community supervision.

In 2019, the Legislature passed, and the Governor signed into law S.B. 1310 ([Laws 2019, Chapter 310](#)). S.B. 1310 allowed certain prisoners to receive earned release credits at a rate of three days for every seven days served instead of one day for every six days served. To be eligible for the increased rate of credits, the prisoner must have 1) been sentenced for possession or use of marijuana, dangerous drugs or narcotic drugs, or possession of drug paraphernalia; 2) successfully completed a drug treatment program or other major self-improvement program provided by the Arizona Department of Corrections (ADC) during the prisoner's term of imprisonment; and 3) not previously been convicted of a violent or aggravated felony ([A.R.S. § 41-1604.07](#)).

The fiscal impact to the state General Fund is unknown at this time.

Provisions

Earned Release Credits

1. Allows a prisoner to accrue earned release credits at a rate of five days for every six days served in addition to the base accrual rate of one day for every six days served if the prisoner:
 - a) was sentenced to a term of imprisonment for specified drug offenses, except for a conviction involving the sale of any substance to a minor;
 - b) is not serving a sentence for an excluded offense; and
 - c) has done any of the following:
 - i. successfully completed a drug or substance abuse treatment program, formal mentoring and reentry program or other major self-improvement program that is provided by the ADC and that has a demonstrated record of reducing recidivism;
 - ii. actively participated for a minimum of six months in an intergovernmental agreement or an Arizona correctional industries work program or skills-based work program approved by the ADC; or
 - iii. successfully completed a program to achieve an occupational license or certificate during the prisoner's term of imprisonment.
2. Allows a prisoner who is not sentenced for specified drug offenses to accrue earned release credits at a rate of two days for every six days served in addition to the base accrual rate if the prisoner:
 - a) is not serving a sentence for, or has not been previously convicted of, an excluded offense or a previous conviction for a similar offense committed in another jurisdiction; and
 - b) has completed any of the reentry program, work program or occupational license requirements listed above for prisoners who are sentenced to drug offenses.
3. Specifies that a previous conviction of a violent or aggravated felony only applies to a prisoner who committed the offense when the prisoner was at least 18 years old.
4. Defines an *excluded offense* as:
 - a) a serious offense or a violent or aggravated offense;
 - b) a dangerous crime against children;
 - c) unlawful mutilation;
 - d) trafficking of persons for forced labor or services;
 - e) sexual extortion;
 - f) specified violations of unlawful sexual conduct and sexual abuse;
 - g) causing a spouse to become a prostitute;
 - h) detention of persons in house of prostitution for debt;
 - i) aggravated domestic violence;
 - j) unlawful sale or purchase of children;
 - k) illegal control of an enterprise if the offense involves a minor;
 - l) smuggling; and
 - m) participating in a human smuggling organization.
5. Requires the ADC to notify victims who request postconviction notices of the prisoner's earliest release date within 30 days after the prisoner qualifies for earned release credits.

6. States that the provisions of this legislation apply to:
 - a) all prisoners serving a term of imprisonment for specified drug offenses; and
 - b) for all other offenses that are eligible for earned release credit, only prisoners that are convicted on or after the general effective date.
7. Requires a prisoner serving a term of imprisonment for specified drug offenses and who meets prescribed eligibility criteria before the general effective date to begin earning earned release credits.

Functional Literacy

8. Requires the Director of the ADC (Director), on admission of an inmate to the ADC, to make literacy programming and a standardized assessment examination available to each inmate who has not demonstrated functional literacy at an eighth grade level before becoming eligible for earned release.
9. Requires the Director to make the determination of eligibility and provide the standardized assessment testing for each inmate before the earliest date that the inmate becomes eligible for release.
10. Removes failing to achieve functional literacy as a preclusion to an inmate being eligible for:
 - a) the 90-day transition program; and
 - b) the inmate's term of community supervision determined by the inmate's earned release date.
11. Allows the Director to order participation in a literacy program as a condition of community supervision if the prisoner has not demonstrated functional literacy at an eighth grade level.

Forfeiture of Earned Release Credits

12. Allows the Director to declare a portion of release credits earned by a prisoner forfeited, rather than all of the prisoner's release credits, if the prisoner fails to adhere to the ADC rules or continue to volunteer or participate in work, educational, treatment or training programs.
13. Allows a prisoner whose release credits are forfeited to apply for restoration of the credits if the prisoner has at least three months and not more than five years of incarceration remaining.
14. Allows a prisoner to apply for restoration of credits six months after the date that the prisoner was found guilty of a disciplinary violation or the date that the Director declared all or a portion of the credits forfeit, whichever is earliest.
15. Allows a prisoner serving a consecutive sentence for multiple convictions to apply for restoration of the credits earned for the first sentence to be applied to the prisoner's current sentence under the same time constraints as prisoners not serving consecutive sentences.
16. Stipulates that a prisoner must knowingly bring a claim without substantial justification to the court in order to require the prisoner to forfeit five days of earned release credits.

Program Reporting Requirements

17. Requires the ADC to:
 - a) within 15 days after the prisoner's admission, perform an assessment for each prisoner that does both of the following:
 - i. develops a case plan that determines the type and amount of programming that is appropriate for the prisoner;
 - ii. assigns each prisoner to the appropriate programming and that meets the prisoner's assessed needs and is likely to contribute to reducing the prisoner's risk of recidivism; and
 - b) on or before December 1, 2024, expand the type, number and availability of programs and programming so that all prisoners, including those eligible to earn earned release credits, have meaningful and reasonably timely access to programs and programming.
18. Requires the ADC, by December 1, 2025, to complete an assessment of each earned release credit program offered by the ADC for prisoners to earn release credits.
19. Requires the assessment to be completed by an independent contractor that has expertise in assessing correctional programming and recidivism and that does not have a financial interest in the ADC or any of the ADC's contractors or subcontractors.
20. Requires each assessment to include:
 - a) a description of the program and the requirements for program participants;
 - b) a description of who coordinates or conducts the program at each institution and that entity's qualifications;
 - c) whether other jurisdictions use a similar program and, if a similar program does exist, a comparison of the programs;
 - d) a quantitative assessment of the three-year rate of recidivism for a cohort of prisoners who participated in the program, assessing recidivism based on rearrest, reconviction, reincarceration, demographics and whether the prisoner completed the program;
 - e) the cost for each institution to provide the program;
 - f) a qualitative assessment of the quality, effectiveness or value of the program based on interviews with program participants, coordinators or other ADC employees or volunteers;
 - g) recommendations, if any, for improving or maintaining the quality, effectiveness or value of the program; and
 - h) any other information the contractor determines is pertinent to describing the quality, effectiveness or value of the program.
21. Repeals the requirement to conduct assessments of all programs offered by the ADC for earned release credits on July 1, 2026.
22. Requires the report on earned release credit programs to be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Director of the Joint Legislative Budget Committee (JLBC), the chairman of the Joint Legislative Audit Committee (JLAC) and the Secretary of State.
23. Requires the Office of the Auditor General (OAG), beginning December 1, 2022, to prepare and submit an annual audit of the ADC's programming to the Governor, President of the Senate, Speaker of the House of Representatives, the Director of the JLBC and the chairman of JLAC and provide a copy of the report to the Secretary of State.

24. Requires the annual report from the OAG to include:
 - a) for each institution, the number, type, description and capacity of programming that is available to prisoners in the institution;
 - b) by institution and for each program, the number of prisoners who both participated in, and completed programming;
 - c) by institution and for each program, the number of prisoners eligible to earn release credits who both participated in, and completed programming;
 - d) the number of earned release credits earned by eligible prisoners in each institution;
 - e) by institution, the number of employees, volunteers and prisoners who provide or coordinate programming and a description of each person's qualifications;
 - f) whether the institution is providing adequate types of programming, has adequate staffing capability for programming and is correctly calculating and administering earned release credits among other requirements; and
 - g) recommendations on how the Legislature, the Governor and the ADC can increase the availability of, quality of, access to, capacity of and funding for programming in all institutions and ensure that all prisoners are provided meaningful access to programming in a reasonably timely fashion.
25. Requires the Director, by December 31 of each year, to prepare and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Director of the JLBC and the chairman of JLAC, and to provide a copy to the Secretary of State.
26. Requires the annual report by the Director to include, in addition to current requirements;
 - a) the number of earned release credits forfeited by prisoners by institution in each month of the reporting period and the reason why the earned release credits were forfeited;
 - b) the number of days of earned release credits earned by prisoners by institution in each month of the reporting period and the total number of days those prisoners were not incarcerated in the ADC as a result of earning earned release credits; and
 - c) by institution, a list of programs and programming that a prisoner may earn release credits for, the number of prisoners who were eligible for earned release credits, and the number of prisoners who were eligible for earned release credits and who participated in or completed programming.
27. Requires the annual report by the Director to delineate certain reporting factors by institution, and to include earned release credits received by prisoners regardless of the rate at which the prisoner earns release credits.
28. Requires the JLBC, within 30 days of receiving the Director's report, to prepare and submit a report to the House and Senate Judiciary and Appropriations committees or their successor committees, as well as the Governor, the Speaker of the House of Representatives, the President of the Senate and JLAC.
29. Requires the report from the JLBC to include:
 - a) the annual amount of monies saved that is a result of prisoners earning earned release credits and being released on community supervision or transferred into the 90-day transition program, including the savings that are a result of the avoidance or deferral of future construction, acquisition or operations costs of correctional facilities as compared to the earned release credits that were earned and costs incurred before the effective date of this legislation;

- b) the annual amount of monies saved that is a result of a decrease in recidivism and that may be attributed to a prisoner's participation in the rehabilitative and work programs prescribed by this legislation; and
- c) a description of how the reduced expenditures by the ADC and the annual savings created by the earned release credits earned were invested.

Other ADC Requirements

- 30. Allows the Director to order, rather than requires, each person enrolled in a drug treatment or education program to pay for the cost of participation in the program to the extent of the person's financial ability.
- 31. Removes the stipulation that a prisoner released pursuant to the prisoner's earned release date for a non-drug offense cannot be ordered to apply for healthcare benefits through the Arizona Health Care Cost Containment System before release.
- 32. Requires an authorization of temporary release for eligible inmates to be posted on the ADC's website, along with rules adopted by the Director.

Miscellaneous

- 33. Contains a legislative intent clause.
- 34. Defines *program* and *programming*.
- 35. Makes technical and conforming changes.
- 36. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

- 1. Adopted the strike-everything amendment.
- 2. Specifies the modified earned release credit program does not apply to a prisoner who was sentenced for an excluded offense rather than a serious or violent offense.
- 3. Removes a 15-hour psycho-education program led by ADC staff as one of the eligible programs for inmate participation to qualify for the earned release credits.
- 4. Requires the ADC to assess each prisoner within 15 days of the prisoner's admission to determine the type of programming appropriate to the prisoner and assign the prisoner to that programming.
- 5. Requires the ADC, by December 1, 2024, to expand programming offered to all prisoners.
- 6. Requires the ADC, by December 1, 2022, to expand programming so all prisoners who are eligible to earn earned release credits have programs.
- 7. Requires the Auditor General to complete an annual audit of the ADC programming and submit an annual report to the Legislature and outlines the reporting requirements.

8. Modifies annual reporting requirements that the ADC must submit to the Legislature.
9. Requires the ADC to complete an assessment of each earned release credit program offered and outlines assessment requirements.
10. Defines *excluded offense*.
11. Makes technical and conforming changes.

House Action

COM	3/24/21	W/D	
APPROP	3/30/21	DPA/SE	11-2-0-0
3 rd Read	6/28/21		50-8-2

Prepared by Senate Research

June 29, 2021

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